

SENATE BILL NO. 291

INTRODUCED BY D. RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING HOME SCHOOLS; REQUIRING A HOME SCHOOL TO REGISTER WITH THE RESIDENT SCHOOL DISTRICT; ESTABLISHING QUALIFICATIONS FOR A PARENT WHO SUPERVISES A HOME SCHOOL; ESTABLISHING THE REQUIREMENTS FOR OPERATING A HOME SCHOOL; REQUIRING THAT A STUDENT IN A HOME SCHOOL BE TESTED IN 4TH, 8TH, AND 11TH GRADES; AMENDING SECTIONS 20-5-102, 20-5-109, 20-5-111, 41-5-1203, AND 45-8-361, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Quality Home School and Child Protection Act".

NEW SECTION. **Section 2. Definition.** As used in [sections 1 through 8], "home school" means a program of education supervised by a child's parent, in the child's home, in accordance with the requirements of [sections 1 through 8].

NEW SECTION. **Section 3. Exemption from compulsory enrollment.** To qualify its students for exemption from compulsory enrollment under 20-5-102, a home school shall comply with the provisions of [sections 1 through 8].

NEW SECTION. **Section 4. Registration with school district.** At least 14 days before beginning a home school or within 14 days of establishing a child's residence in a school district and once each subsequent year, a parent intending to educate a child in a home school shall register with the child's resident school district. The registration must include:

- (1) the name and address of the child;
- (2) the child's date of birth;
- (3) the child's grade level;

- (4) the name and address of the parent who will supervise the home school; and
(5) a copy of the child's immunization record.

NEW SECTION. Section 5. Parental qualifications. A parent may supervise a home school if the parent:

- (1) is licensed to teach in Montana;
(2) holds a baccalaureate degree; or
(3) meets the requirements of [section 7].

NEW SECTION. Section 6. Required course of study -- instructional time -- academic records.
A parent supervising a home school shall:

- (1) provide an organized course of study that includes instruction in the subjects required of public schools as a basic educational program pursuant to 20-7-111;
(2) provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301 and 20-1-302; and
(3) maintain an annual record of courses taken by the child and the child's academic progress, including any standardized achievement test results. If the child transfers to a public school, the parent shall, upon request, furnish the record to the school.

NEW SECTION. Section 7. Required monitoring of progress -- reporting of progress. (1) A parent who has a high school diploma or a general education development certificate may supervise a home school but must be monitored in accordance with the provisions of this section for the first 2 years. The school district shall assign an individual to monitor a child in a home school unless the parent notifies the school district that the parent shall select an individual to monitor the child. A monitor assigned by the school district or selected by the parent must be licensed to teach in Montana. A monitor selected by a parent shall notify the school district of the selection.

(2) The monitor shall report the child's progress to the school district in December and May of each school year.

(3) After the initial 2-year period of monitoring, the period may be extended by mutual consent of the parent and the monitor.

(4) If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children whom the parent supervises in the home school.

NEW SECTION. Section 8. Participation in state-level assessments -- results. (1) A child enrolled in a home school shall take the nationally standardized examination required by the board of public education of all public school students in 4th, 8th, and 11th grades. The test must be taken in a public school in the child's district of residence or, at the request of the parent, in another school district building. The test must be administered by a person licensed to teach in Montana. The results of the test must be filed with the school district.

(2) If the child's basic composite score on the nationally standardized examination is less than the 30th percentile nationally, the school district shall appoint an assessment team to assess the child for a potential learning problem under rules adopted by the superintendent of public instruction. If the assessment team determines that the child does not have a learning problem, the parent, with the assistance of a licensed teacher, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the school district. The parent is responsible for any costs associated with the development of the remediation plan. If the parent fails to file a remediation plan, the parent is considered to be in violation of compulsory enrollment under 20-5-102 and may no longer supervise the home school.

(3) (a) If the assessment team determines that the child is in need of specially designed instruction that can be provided only through special education and related services, the parent may continue to supervise the home school if:

(i) the child does not have a developmental disability;

(ii) the parent files with the school district a services plan that was developed privately or through the school district; and

(iii) the services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.

(b) The school district shall annually determine if the child is making reasonable academic progress based on the child's services plan. If a parent fails to file a services plan, the parent is considered to be in violation of compulsory enrollment under 20-5-102 and may no longer supervise the home school.

Section 9. Section 20-5-102, MCA, is amended to read:

1 **"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), any
2 parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior
3 to the first day of school in any school fiscal year shall ~~cause~~ ensure that the child ~~to be~~ is instructed in the
4 program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

5 (a) the child's 16th birthday;

6 (b) the date of completion of the work of the 8th grade.

7 (2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of
8 the district within the first week of the school term or when ~~he~~ the parent, guardian, or other person establishes
9 residence in the district unless the child is:

10 (a) enrolled in a school of another district or state under any of the tuition provisions of this title;

11 (b) provided with supervised correspondence study or supervised home study under the transportation
12 provisions of this title;

13 (c) excused from compulsory school attendance upon a determination by a district judge that
14 attendance is not in the best interest of the child;

15 (d) excused by the board of trustees upon a determination that attendance by a child who has attained
16 the age of 16 is not in the best interest of the child and the school; or

17 (e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109 or [sections
18 1 through 8]. For the purposes of this subsection (2)(e), a home school ~~is the instruction by a parent of his child,~~
19 ~~stepchild, or ward in his residence~~ is as defined in [section 2] and a nonpublic school includes a parochial,
20 church, religious, or private school."

21
22 **Section 10.** Section 20-5-109, MCA, is amended to read:

23 **"20-5-109. Nonpublic school requirements for compulsory enrollment exemption.** To qualify its
24 students for exemption from compulsory enrollment under 20-5-102, a nonpublic ~~or home~~ school shall:

25 (1) maintain records on pupil attendance and disease immunization and make the records available
26 to the county superintendent of schools on request;

27 (2) provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301 and
28 20-1-302;

29 (3) be housed in a building that complies with applicable local health and safety regulations; and

30 (4) provide an organized course of study that includes instruction in the subjects required of public

1 schools as a basic ~~instructional~~ educational program pursuant to 20-7-111; ~~and~~
2 ~~—— (5) in the case of home schools, notify the county superintendent of schools, of the county in which the~~
3 ~~home school is located, in each school fiscal year of the student's attendance at the school."~~

4
5 **Section 11.** Section 20-5-111, MCA, is amended to read:

6 **"20-5-111. Responsibilities and rights of parent who provides home school.** Subject to the
7 provisions of ~~20-5-109~~ [sections 1 through 8], a parent has the authority to instruct ~~his~~ the parent's child,
8 stepchild, or ward in a home school and is solely responsible for:

- 9 (1) the educational philosophy of the home school;
10 (2) the selection of instructional materials, curriculum, and textbooks;
11 (3) the time, place, and method of instruction; and
12 (4) the evaluation of the home school instruction."
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14 **Section 12.** Section 41-5-1203, MCA, is amended to read:

15 **"41-5-1203. Preliminary inquiry -- youth assessment.** (1) The probation officer or assessment officer
16 may perform a youth assessment if:

17 (a) a youth has been referred to the youth court as an alleged youth in need of intervention with a
18 minimum of two misdemeanor offenses or three offenses in the past year that would not be offenses if the youth
19 were an adult;

20 (b) the youth is alleged to be a youth in need of intervention or a delinquent youth and the youth or the
21 youth's parents or guardian requests the youth assessment and both the youth and the parents or guardian are
22 willing to cooperate with the assessment process; or

23 (c) the circumstances surrounding a youth who has committed an act that would be a felony if
24 committed by an adult indicate the need for a youth assessment and the safety of the community has been
25 considered in determining where the youth assessment is conducted.

26 (2) A youth assessment:

27 (a) must be a multidisciplinary effort that may include; but is not limited to a chemical dependency
28 evaluation of the youth, an educational assessment of the youth, an evaluation to determine if the youth has
29 mental health needs, or an assessment of the need for any family-based services or other services provided by
30 the department of public health and human services or other state and local agencies. The education component

1 of the youth assessment is intended to address attendance, behavior, and performance issues of the youth. The
2 education component is not intended to interfere with the right to attend a nonpublic or home school that
3 complies with 20-5-109 or [sections 1 through 8].

4 (b) must include a summary of the family's strengths and needs as they relate to addressing the youth's
5 behavior;

6 (c) may occur in a youth's home, with or without electronic monitoring, or pursuant to 41-5-343 in a
7 youth assessment center licensed by the department of public health and human services or in any other entity
8 licensed by the department of public health and human services. The county shall provide adequate security
9 in other licensed entities through provision of additional staff or electronic monitoring. The staff provided by the
10 county must meet licensing requirements applicable to the licensed entity in which the youth is being held.

11 (3) The assessment officer arranging the youth assessment shall work with the parent or guardian of
12 the youth to coordinate the performance of the various parts of the assessment with any providers that may
13 already be working with the family or providers that are chosen by the family to the extent possible to meet the
14 goals of the Youth Court Act."

15
16 **Section 13.** Section 45-8-361, MCA, is amended to read:

17 **"45-8-361. Possession or allowing possession of weapon in school building -- exceptions --**
18 **penalties -- seizure and forfeiture or return authorized -- definitions.** (1) A person commits the offense of
19 possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores
20 a weapon in a school building.

21 (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school
22 building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon
23 in a school building.

24 (3) (a) Subsection (1) does not apply to law enforcement personnel.

25 (b) The trustees of a district may grant persons and entities advance permission to possess, carry, or
26 store a weapon in a school building.

27 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, be
28 imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to
29 incarceration that are available in the community.

30 (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing

or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(5) As used in this section:

(a) (i) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities.

(ii) The term does not include a home school provided for in ~~20-5-109~~ [sections 1 through 8].

(b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense."

NEW SECTION. Section 14. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1, apply to [sections 1 through 8].

NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2005.

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